



Rahm Emanuel
Mayor

Department of Police · City of Chicago
3510 S. Michigan Avenue · Chicago, Illinois 60653

Eddie T. Johnson
Superintendent of Police

April 19, 2019

Via Email:

Freddy Martinez
70977-30114753@requests.muckrock.com

RE: NOTICE OF RESPONSE TO FOIA REQUEST
FOIA FILE NO.: P483058

Dear Freddy Martinez:

The Chicago Police Department (CPD) is in receipt of your Freedom of Information Act (FOIA) request, received April 15, 2019 for the following:

"Pursuant to the Illinois Freedom of Information Act, I hereby request the following records:

Beginning on January 29th of 2019:

Any and all documents related to the investigation into Jussie Smollett."

Your request was reviewed by CPD. It was determined that your request is denied as it is too broad. Section 3(g) of FOIA provides that "requests for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information." 5 ILCS 140/3(g). In order to comply with your request as written, this department would need to identify, procure, and review an unknown quantity of paper and electronic records. Without direction from you as to which specific records you seek, such an endeavor would pose an undue burden on the operations of this department. As the Illinois Attorney General's Public Access Counselor has noted (see 2017 PAC 47756, issued June 20, 2017), Illinois courts have held, "[a] request to inspect or copy must reasonably identify a public record[.]" *Chicago Tribune Co. v. Dept. of Financial and Professional Regulation*, 2014 IL App (4th) 130427, par. 33. A FOIA request "reasonably describes records if 'the agency is able to determine precisely what records are being requested.'" *Kowalczyk v. Dept. of Justice*, 73 F.3d 386, 388 (D.C. Cir. 1996) (quoting *Yeager v. Drug Enforcement Admin.*, 678 F.2d 315, 326 (D.C. Cir. 1982)).

To the extent that your request for "any and all documents" includes email communications, it was determined that your request is unduly burdensome as currently written. In order to effectively run an email search, CPD needs (1) the email address(es) or employee name(s) of the account(s) you wish searched; (2) key words you wish to search for; and (3) the timeframe to be searched.

At this time your request as currently written is unduly burdensome. Pursuant to section 3(g) of FOIA, we would like to extend to you an opportunity to modify your request to make it more manageable. Once a narrowed request has been formulated, a new FOIA request can be submitted to CPD, specifying the records you would like CPD to provide. Please reference FOIA file #P483058 in your response to avoid any miscommunication or duplication of work.

To the extent that you narrow your request, please be advised that any records relating to the criminal investigation case of Jussie Smollett must be denied in their entirety as information that is protected and exempt from disclosure under the following provision of the Illinois Freedom of Information Act;

5 ILCS 140/7(1)(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law;

The requested records are exempt from disclosure pursuant to the Order for Immediate Sealing of Criminal Records entered on March 26, 2019, and still in effect on the date of this letter, by Judge Steve Watkins in the case of *People of the State of Illinois v. Jussie Smollett*, 19 CR 3104. This Order prohibits the release of records in reference to the criminal case of Jussie Smollett. (See Order, attached hereto). The Illinois Supreme Court has recently affirmed the Appellate Court's decision in *In re APPOINTMENT OF SPECIAL PROSECUTOR*, and held that a lawful Court Order takes precedence over the disclosure requirements of FOIA. *In re APPOINTMENT OF SPECIAL PROSECUTOR*, 2019 IL 122949 at ¶66.

If I can be of further assistance, please contact me at the following address:

Chicago Police Department
Attention: Freedom of Information
Office of Legal Affairs, Unit 114
3510 S. Michigan Avenue
Chicago, IL 60653
foia@chicagopolice.org

You have a right of review by the Illinois Attorney General's Public Access Counselor, who can be contacted at 500 S. Second St., Springfield, IL 62706 or by telephone at 877-299-3642. You may also seek judicial review under 5 ILCS 140/11.

Sincerely,

A. Marlan
Freedom of Information Act Officer
Chicago Police Department
Office of Legal Affairs, Unit 114
3510 S. Michigan Ave.
Chicago, IL 60653